



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Commercial Roofing Company

File: B-260561

Date: May 2, 1995

### DECISION

Commercial Roofing Company (CRC) protests the award of a contract to Huber, Hunt & Nichols/Terstep Roofing Company, Inc., a Joint Venture (HHN/Terstep), under request for proposals (RFP) No. GS-05P-94-GBC-0003, issued by the General Services Administration (GSA) for the design and construction of roof replacement and repairs at the Jeffersonville, Indiana Federal Center. CRC argues both that Terstep is not an existing corporation, rendering the joint venture ineligible for award, and that GSA improperly evaluated the awardee's proposal.

We dismiss the protest because CRC is not an interested party.

This solicitation anticipated awarding a fixed-price contract to the offeror whose proposal was most advantageous to the government, technical factors and price considered. Technical factors were more important than price, but, as proposals became more equal in technical merit, price would become more important. The agency received proposals from four firms, including those from HHN/Terstep and from CDI, Inc./CRC, a Joint Venture,<sup>1</sup> by the May 20, 1994 closing date. Clarifications and best and final offers were requested and submitted, with the final evaluation results as follows:

	<u>Price</u>	<u>Technical<sup>2</sup></u>
Company A	\$25,722,618	60
HHN/Terstep	11,978,035	48
Company B	12,615,827	48
CDI/CRC	15,535,600	43

The source selection evaluation board (SSEB) ranked the firms in the order listed above, and stated that the technical difference between Company A's proposal and the

<sup>1</sup>CDI has not joined CRC in this protest.

<sup>2</sup>The maximum possible technical score was 100 points.

other three proposals was not significant enough to justify its higher price. The SSEB concluded that the remaining proposals were technically equal, and recommended award to HHN/Terstep on the basis of its lower price. The contracting officer reviewed the SSEB's report and stated that since the technical scores were all within the same range, and considering the evaluation scheme's mandate that price become more important as proposals became more technically equal, HHN/Terstep's proposal was the most advantageous to the government. He specifically stated that "[t]he technical strengths of each offeror [were] not significant enough to justify the additional money being spent for the work." Award was made to HHN/Terstep on February 17, 1995, and this protest followed.

Under the bid protest provisions of the Competition in Contracting Act of 1984, 31 U.S.C. §§ 3551-3556 (1988), only an "interested party" may protest a federal procurement. That is, a protester must have a direct economic interest which would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a) (1995). Determining whether a party is sufficiently interested involves consideration of a party's status in relation to a procurement. Panhandle Venture V; Sterling Inv. Properties, Inc.--Recon., B-252982.3; B-252982.4, Sept. 1, 1993, 93-2 CPD ¶ 142. A protester is not an interested party where it would not be in line for contract award were its protest to be sustained. Abre Enters., Inc., B-251569.2, Mar. 16, 1993, 93-1 CPD ¶ 239.

Here, the record shows that there is an intervening offeror between HHN/Terstep and CRC which would precede the protester in eligibility for award. That intervening offeror submitted a proposal considered to be technically equal to that of CRC, but at a price nearly \$3 million below that of the protester. As discussed above, the RFP's evaluation scheme contemplated a greater consideration of price where, as here, technical proposals were essentially equal, and the contracting officer specifically stated that the technical strengths of each offeror were not significant enough to justify their additional costs. Moreover, CRC's allegations do not raise the likelihood that its relative standing would improve vis-a-vis the intervening offeror, see Protective Enforcement Agency, Inc., B-253836.2, Aug. 4, 1994, 94-2 CPD ¶ 59, and, since CRC does not challenge any aspect of GSA's evaluation of the proposals of either the intervening offeror or itself, its request that all proposals be reevaluated is not warranted.<sup>3</sup> Under the


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<sup>3</sup>It is unclear why CRC argues that the technical evaluation of its proposal "may have placed it ahead of" the

(continued...)

circumstances, we conclude that CRC lacks the requisite direct economic interest to be considered a. interested party to protest the award to HHN/Teratep. See Government Technology Servs., Inc.; et al., B-258082.2; et al., Sept. 2, 1994, 94-2 CPD ¶ 93.

The protest is dismissed.

  
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<sup>3</sup>(...continued)  
intervening offeror, considering that GSA conducted a technical evaluation of all offerors and determined that they were essentially technically equal.